

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

TRACYE YIELDING

PLAINTIFF

v.

CASE NO. 3:19-CV-00058-BSM

STEPHEN LIVELY, *et al.*

DEFENDANTS

ORDER

Defendants' motion to dismiss [Doc. No. 14] is granted, Tracye Yielding's complaint [Doc. No. 2] is dismissed without prejudice, and Yielding's motion for status [Doc. No. 9] is denied as moot. Yielding is suing Arkansas Division of Correction employees Steven Lively and Kyle Moody for the death of her son. In that she does not specifically sue defendants in their individual capacities, her claims are construed as being against them in their official capacities. *See Mick v. Raines*, 883 F.3d 1075, 1079 (8th Cir. 2018). Official capacity suits are suits against the government agency. *See Nix v. Norman*, 879 F.2d 429, 432 (8th Cir. 1989) (official capacity suits against government agency unless plaintiff seeks injunctive relief from government agent). Government agencies are immune from suit. *See id.* (suits against state agency proscribed by Eleventh Amendment). Yielding's claims are therefore dismissed.

IT IS SO ORDERED this 7th day of July, 2020.


Brian S. Miller
UNITED STATES DISTRICT JUDGE